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13BB-AC00099 - DAN O DONNELL SR V FINANCIAL RECOVERY SERVICES INC

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<b>02/19/2013</b>	<b>Summons Issued-Associate</b> Document ID: 13-ADSM-174, for FINANCIAL RECOVERY SERVICES INC. Summons to Attorney for service by Special Process Server. kg <b>Return Scheduled</b> <b>Scheduled For:</b> 03/20/2013; 10:00 AM ; RICHARD L SCHEIBE; Warren
<b>02/15/2013</b>	<b>Confid Filing Info Sheet Filed</b> <b>Filed By:</b> JAMES W EASON <b>Order - Special Process Server</b> So Ordered. RLS/kg <b>Motion Special Process Server</b> <b>Filed By:</b> JAMES W EASON <b>Pet Filed in Associate Ct</b> <b>Judge Assigned</b>

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Released 02/21/2013



## IN THE 12TH JUDICIAL CIRCUIT COURT, WARREN COUNTY, MISSOURI

Judge or Division: <b>RICHARD L SCHEIBE</b>	Case Number: <b>13BB-AC00099</b>
Plaintiff/Petitioner: <b>DANIEL T ODONNELL</b>	Plaintiff's/Petitioner's Attorney/Address: <b>JAMES W EASON 1 NORTH TAYLOR AVE SAINT LOUIS, MO 63108.</b>
vs.  Defendant/Respondent: <b>FINANCIAL RECOVERY SERVICES INC</b>	Date, Time and Location of Court Appearance: <b>20-MAR-2013, 10:00 AM DIVISION 2 COURTROOM 104 WEST MAIN STREET WARRENTON, MO 63383</b>
Nature of Suit: <b>AC Other Tort</b>	

(Date File Stamp)

## Associate Division Summons

The State of Missouri to: **FINANCIAL RECOVERY SERVICES INC**

Alias:

**CO CT CORPORATION  
120 SOUTH CENTRAL AVENUE  
CLAYTON, MO 63105**



You are summoned to appear before this court on the date, time, and location above to answer the attached petition. If you fail to do so, judgment by default will be taken against you for the relief demanded in the petition. You may be permitted to file certain responsive pleadings, pursuant to Chapter 517 RSMo. Should you have any questions regarding responsive pleadings in this case, you should consult an attorney.

If you have a disability requiring special assistance for your court appearance, please contact the court at least 48 hours in advance of scheduled hearing.

2/19/2013 Date

*Brenda Eggersing* /b  
Clerk

Further Information:

## Sheriff's or Server's Return

Note to serving officer: Service must not be made less than ten days nor more than sixty days from the date the Defendant/Respondent is to appear in court.

I certify that I have served the above summons by: (check one)

delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.  
 leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with a person of the Defendant's/Respondent's family over the age of 15 years.  
 (for service on a corporation) delivering a copy of the summons and a copy of the petition to \_\_\_\_\_ (name) \_\_\_\_\_ (title).  
 other \_\_\_\_\_

Served at \_\_\_\_\_ (address)

in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal)

Subscribed and sworn to before me on \_\_\_\_\_ (date).

My commission expires: \_\_\_\_\_

Date

Notary Public

## Sheriff's Fees, if applicable

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00

Milage \$ \_\_\_\_\_ ( \_\_\_\_\_ miles @ \$ \_\_\_\_\_ per mile)

Total \$ \_\_\_\_\_

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

**SERVICE  
COPY**

IN THE CIRCUIT COURT  
WARREN COUNTY  
STATE OF MISSOURI  
ASSOCIATE DIVISION

STATE OF MISSOURI  
In Circuit Court  
FILED

DAN O' DONNELL, SR.

FEB 15 2013

Plaintiff,

Brenda Eggering  
Circuit Clerk  
Warren County

v.

) Cause No.  
138B-Ac00099  
Division

FINANCIAL RECOVERY SERVICES, INC.

Defendant.

JURY TRIAL DEMANDED

Serve at:

CT Corporation  
120 South Central Avenue  
Clayton, Missouri 63105

**PETITION**

COMES NOW, Plaintiff, Dan O' Donnell, Sr., and for his Petition states as follows:

**INTRODUCTION**

1. This is an action for statutory damages brought by an individual consumer for violations of the Fair Debt Collections Practices Act, 15 USC 1692 et. Seq. ("FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.
2. This is an action for statutory damages brought by an individual consumer for violations of the Telephone Consumer Protection Act of 1991("TCPA"), 47 USC 227 et. seq.
3. Plaintiff demands a jury trial on all issues so triable.

**JURISDICTION**

4. This Court has jurisdiction of the FDCPA claim under 15 USC 1692k (d).
5. This Court has jurisdiction of the TCPA claim under 47 USC 227 (3)(b).

**PARTIES**

6. Plaintiff is a natural person currently residing in Warren County, Missouri.

Plaintiff is a "consumer" within the meaning of the FDCPA and TCPA. The alleged debt Plaintiff owes arises out of consumer, family, and household transactions.

7. Defendant is a Minnesota corporation registered as a foreign corporation in the state of Missouri. The principal business purpose of Defendants is the collection of debts, and Defendants regularly attempt to collect debts alleged to be due another in Missouri and nationwide.

8. Defendants are engaged in the collection of debts from consumers using the mail and telephone. Defendants are "debt collectors" as defined by the FDCPA. 15 USC 1692a (6).

#### FACTS

9. Defendant's collection activity began within the past twelve (12) months.

10. Defendant's collection activity consisted of numerous telephone calls to Plaintiff's cellular telephone and at least one initial collection letter.

11. Plaintiff placed a call to Defendant on or about February 5, 2013, after receiving a voice message from Defendant.

12. During this call, Plaintiff requested that Defendant stop calling him on his cell phone.

13. During this call, Defendant stated that they were collecting on multiple accounts.

14. Upon information and belief, Defendant has only sent one letter regarding one account.

15. Upon information and belief, Defendant has called and continues to call Plaintiff's cellular telephone multiple times per week, and sometimes multiple times per day.

16. Defendant's phone calls for Plaintiff were placed from Defendant's automatic telephone dialing system, as defined by 47 USC 227(a)(1), from the phone number that is registered to the Defendant.

17. Those phone calls were made to Plaintiff's cellular phone and he was charged for those phone calls.

18. Due to the fact that Defendant calls Plaintiff from multiple numbers, some of which are blocked by caller identification services, it is impossible for Plaintiff to ascertain the precise number of calls at this time.

19. Plaintiff never entered into any agreement whereby he provided express consent for Defendant to place calls to his cellular phone with Defendant's automatic telephone dialing system.

20. Plaintiff never entered into any agreement whereby he consented to arbitrate disputes between herself and Defendant.

21. During the phone call, Defendant was rude and combative with Plaintiff.

22. During the phone call after Plaintiff had expressed his right not to be contacted on his cell phone, Defendant asked Plaintiff about his "moral obligation" to repay the debt.

23. This statement was made solely with the intention to harass and abuse Plaintiff.

24. Defendant's collection attempts have caused Plaintiff to incur actual damages including but not limited to cellular phone charges, anxiety, sleeplessness, and worry.

**COUNT I: VIOLATION OF THE FDCPA**

25. Plaintiff re-alleges and incorporates by reference all of the above paragraphs.

26. In its attempts to collect the alleged debt from Plaintiff, Defendant has committed violations of the FDCPA, 15 USC 1692 et. seq., including, but not limited to, the following:

- a. Causing a telephone to ring repeatedly with the intent to annoy, abuse, or harass any person at the called number. 15 USC 1692d;
- b. Causing charges to be made to the consumer by concealment. 15 USC § 1692d;

- c. Failure to send an initial communication on one of the debts being collected by the Defendant. 15 USC 1692g;
- d. Engaging in conduct where the natural consequence of which is to harass, oppress and abuse Plaintiff. 15 USC 1692d.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendant for:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA;
- B. Actual damages;
- C. Release of the alleged debt;
- D. Statutory damages, costs and reasonable attorney's fees pursuant to 15 USC 1692(k); and
- E. For such other relief as the Court may deem just and proper.

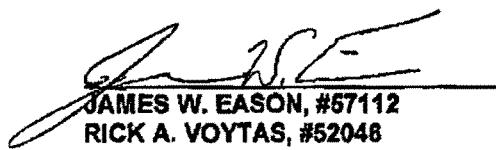
**COUNT II: VIOLATION OF THE TCPA**

- 27. Plaintiff re-alleges and incorporates by reference paragraphs 1 to 20.
- 28. In its attempts to collect the alleged debt from Plaintiff, Defendant has committed violations of the TCPA, 47 USC 227 et. seq., including, but not limited to, the following:
  - a. By placing non-emergency phone calls to Plaintiff's cellular phone without express authorized consent of the Plaintiff. 47 USC 227(b) (1) (A) (iii).

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendant for:

- A. Declaratory judgment that Defendant's conduct violated the TCPA;
- B. Actual damages;
- C. Statutory damages pursuant to 47 USC (b)(3); and
- D. For such other relief as the Court may deem just and proper.

**THE EASON LAW FIRM, LLC**



**JAMES W. EASON, #57112  
RICK A. VOYTAS, #52048  
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